

QUINN EMANUEL URQUHART & SULLIVAN LLP

Susheel Kirpalani (admitted *pro hac vice*)
Deborah J. Newman (admitted *pro hac vice*)
Robert S. Loigman (admitted *pro hac vice*)
Benjamin I. Finestone (admitted *pro hac vice*)
Calli Ray (admitted *pro hac vice*)
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000

SIDLEY AUSTIN LLP

Paige Holden Montgomery
Juliana L. Hoffman
2021 McKinney Avenue
Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300

*Co-Counsel for Marc S. Kirschner, as Litigation
Trustee of the Highland Litigation Sub-Trust*

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

MARC S. KIRSCHNER, AS LITIGATION
TRUSTEE OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA;
SCOTT ELLINGTON; ISAAC LEVENTON;
GRANT JAMES SCOTT III; STRAND
ADVISORS, INC.; NEXPOINT ADVISORS,
L.P.; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.; DUGABOY
INVESTMENT TRUST AND NANCY
DONDERO, AS TRUSTEE OF DUGABOY
INVESTMENT TRUST; GET GOOD TRUST
AND GRANT JAMES SCOTT III, AS
TRUSTEE OF GET GOOD TRUST; HUNTER
MOUNTAIN INVESTMENT TRUST; MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1 AND LAWRENCE
TONOMURA AS TRUSTEE OF MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST
#2 AND LAWRENCE TONOMURA IN HIS

Adv. Pro. No. 21-03076-sgj

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

CAPACITY AS TRUSTEE OF MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #2; CLO HOLDCO, LTD.;
CHARITABLE DAF HOLDCO, LTD.;
CHARITABLE DAF FUND, LP.; HIGHLAND
DALLAS FOUNDATION; RAND PE FUND I,
LP, SERIES 1; MASSAND CAPITAL, LLC;
MASSAND CAPITAL, INC.; AND SAS ASSET
RECOVERY, LTD.,

Defendants.

DECLARATION OF PLAINTIFF'S ATTORNEY DEBORAH J. NEWMAN

I, Deborah J. Newman, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts in the State of New York and am admitted *pro hac vice* to practice in the United States Bankruptcy Court for the Northern District of Texas.

2. I am the attorney of record for Plaintiff Marc S. Kirschner (the "Litigation Trustee"), as Litigation Trustee of the Litigation Sub-Trust (the "Trust") established pursuant to the Fifth Amended Plan of Reorganization (the "Plan") of Highland Capital Management L.P. ("HCMLP" or the "Reorganized Debtor") (Bankruptcy Docket No. 1472), in the above-captioned adversary proceeding and, as such, have knowledge of the matters contained herein. What follows is true and correct based on my own personal knowledge. If called and sworn as a witness, I could and would testify competently thereto.

3. Plaintiff filed his Complaint on October 15, 2021 (Docket No. 1). Summons was issued for the Defendant SAS Asset Recovery, Ltd. ("SAS") on October 18, 2021 (Docket No. 3).

4. Plaintiff filed his Amended Complaint on May 19, 2022 (Docket No. 158), and service was executed on SAS pursuant to Rule 4 of the Federal Rules of Civil Procedure, via the

Hague Convention, on August 29, 2022, as shown in the September 9, 2022 filing with this Court (Docket No. 204, attached hereto as Exhibit 1).

5. Under Federal Rule of Civil Procedure 12, the time to answer or otherwise respond to the Amended Complaint is 21 days. Accordingly, SAS was required to answer or otherwise respond to the Amended Complaint by September 19, 2022.

6. SAS has failed to serve or file a pleading or otherwise respond to the Amended Complaint. The applicable time limit for responding to the Amended Complaint has expired.

7. SAS is not a minor or incompetent person.

8. SAS is not currently in the military service, and therefore the Service-members Civil Relief Act is inapplicable.

9. SAS is therefore in default, and Plaintiff requests that the Clerk of this Court grant Plaintiff's Application for the Entry of Default.

[Signature Page Follows]

I declare under penalty of perjury under the laws of the State of Texas and the United States of America that the foregoing is true and correct.

Dated: October 13, 2022

/s/ Deborah J. Newman

Deborah J. Newman

EXHIBIT 1

QUINN EMANUEL URQUHART & SULLIVAN LLP

Susheel Kirpalani (admitted *pro hac vice*)
 Deborah J. Newman (admitted *pro hac vice*)
 Robert S. Loigman (admitted *pro hac vice*)
 Benjamin I. Finestone (admitted *pro hac vice*)
 Calli Ray (admitted *pro hac vice*)
 Alexandre J. Tschumi (admitted *pro hac vice*)
 51 Madison Avenue, 22nd Floor
 New York, NY 10010
 Telephone: (212) 849-7000

SIDLEY AUSTIN LLP

Paige Holden Montgomery
 Juliana L. Hoffman
 2021 McKinney Avenue
 Suite 2000
 Dallas, Texas 75201
 Telephone: (214) 981-3300

*Co-Counsel for Marc S. Kirschner, as Litigation
 Trustee of the Highland Litigation Sub-Trust*

**UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF TEXAS**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹
 Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

MARC S. KIRSCHNER, AS LITIGATION
 TRUSTEE OF THE LITIGATION SUB-TRUST,
 Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA;
 SCOTT ELLINGTON; ISAAC LEVENTON;
 GRANT JAMES SCOTT III; STRAND
 ADVISORS, INC.; NEXPOINT ADVISORS,
 L.P.; HIGHLAND CAPITAL MANAGEMENT
 FUND ADVISORS, L.P.; DUGABOY
 INVESTMENT TRUST AND NANCY
 DONDERO, AS TRUSTEE OF DUGABOY
 INVESTMENT TRUST; GET GOOD TRUST
 AND GRANT JAMES SCOTT III, AS
 TRUSTEE OF GET GOOD TRUST; HUNTER
 MOUNTAIN INVESTMENT TRUST; MARK &
 PAMELA OKADA FAMILY TRUST –
 EXEMPT TRUST #1 AND LAWRENCE
 TONOMURA AS TRUSTEE OF MARK &
 PAMELA OKADA FAMILY TRUST –
 EXEMPT TRUST #1; MARK & PAMELA

Adv. Pro. No. 21-03076-sgj

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; AND SAS ASSET RECOVERY, LTD.,

Defendants.

SUMMONS SERVICE EXECUTED

I hereby certify that on May 27, 2022, the undersigned sent a copy of the summons, together with the amended complaint filed in this proceeding and civil cover sheet, to First Legal Investigations, whom coordinated with the Cayman Islands Central Authority to effectuate service of process on Defendant SAS Asset Recovery, Ltd. pursuant to the Hague Service Convention, as reflected in the affidavit of service attached hereto as Exhibit A.

/s/ Chandler M. Rognes

Counsel for the Litigation Trustee

Exhibit A



Clerk of Court's Office
P.O. Box 495
George Town
Grand Cayman
Cayman Islands
B.W.I.

OUR REF: F.P. 007⁷⁶ OF 2022

AFFIDAVIT OF SERVICE

I, Richard Harford of George Town, Grand Cayman, Cayman Islands affirm and swear as follows:

1. I am the Chief Bailiff of the Grand Court of the Cayman Islands.
2. That on MONDAY the 29th day of AUGUST 2022, 1050 hours I served the attached documents:-

SEE LIST/AS ATTACHED

3. That service was made on the registered company for SAS Asset Recovery LTD
4. At Carey Olsen Services Cayman Limited, Cricket Square , George Town
5. Service was made by handing the said documents to LAURA WALLACE
6. The above statements made by me are true and correct.



RICHARD HARFORD, CHIEF BAILIFF OF THE GRAND COURT

Sworn to before me on Monday 29th day of August 2022

NOTARY PUBLIC, GEORGE TOWN
GRAND CAYMAN, CAYMAN ISLANDS

CERTIFICATE ATTESTATION

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

- ☐ 1. that the document has been served*
que la demande a été exécutée*

— the (date) / le (date):	MONDAY 29 th AUGUST 2022
— at (place, street, number): à (localité, rue, numéro):	CAREY OLSEN SERVICES CAYMAN LIMITED CRICKET SQUARE, GEORGE TOWN

— in one of the following methods authorised by Article 5: dans une des formes suivantes prévues à l'article 5:	
<input checked="" type="checkbox"/> a)	In accordance with the provisions of sub-paragraph a) of the first paragraph of Article 5 of the Convention* selon les formes légales (article 5, alinéa premier, lettre a)*
<input type="checkbox"/> b)	In accordance with the following particular method*: selon la forme particulière suivante*: _____
<input checked="" type="checkbox"/> c)	by delivery to the addressee, if he accepts it voluntarily* par remise simple*

The documents referred to in the request have been delivered to:
Les documents mentionnés dans la demande ont été remis à :

Identity and description of person: Identité et qualité de la personne :	LAURA WALLACE
Relationship to the addressee (family, business or other): Liens de parenté, de subordination ou autres, avec le destinataire de l'acte :	RECEPTIONIST

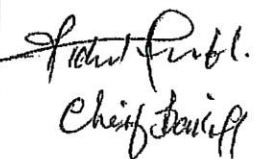

- ☐ 2. that the document has not been served, by reason of the following facts*:
que la demande n'a pas été exécutée, en raison des faits suivants*:

- ☒ In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.
Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint*.

Annexes / Annexes

Documents returned: Pièces renvoyées :	Duplicate copy of document served
In appropriate cases, documents establishing the service: Le cas échéant, les documents justificatifs de l'exécution :	Affidavit of Service and Certificate of Attestation

* If appropriate / s'il y a lieu

Done at / Fait à <u>George Town, Grand Cayman</u> The / le <u>Monday 29th August 2022</u>	Signature and/or stamp Signature et / ou cachet  
--	---

**REQUEST
FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL**

Our Ref: FP0076 of 2022

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or
Commercial Matters, signed at The Hague, the 15th of November 1965.

Identity and address of the applicant

Paige Holden Montgomery, Esq.
Authorized to act as Applicant
Sidley Austin LLP
2021 McKinney Ave., Suite 2000
Dallas, TX 75201 USA

Address of receiving authority

Judicial Administration
P.O. Box 495
61 Edward Street, George Town
Grand Cayman KY1-1106
Cayman Islands

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address):

SAS ASSET RECOVERY, LTD.
c/o Services Cayman Limited
P.O. Box 10008, Willow House
Cricket Square, Grand Cayman KY1-1001
Cayman Islands

- ☒ a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.
- ☐ b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:
- ☐ c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

Service is requested pursuant to Federal Rules of Civil Procedure, Rule 4, and the Hague Service Convention

List of documents:

Summons in an Adversary Proceeding; Notice to Litigants; Adversary Proceeding Cover Sheet; Amended Complaint and Objection to Claims

Done at Dallas, Texas, USA, on the 15th day of June, 2022.

Paige H. Montgomery
Signature

* Delete if inappropriate.

Received by: LAURA WALLACE *LWallace*

Date: 29 August 2022

Time: 9:30am

CO Services Cayman Limited

Receptionist